Supreme Court, U. S.
FILED
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MICHAEL RODAK, JR., CLERK

No. 80-438

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1980

GENEVIEVE GRAYDON,

Petitioner,

v.

PASADENA REDEVELOPMENT AGENCY,

Respondent,

ERNEST W. HAHN, INC.

Real Party in Interest.

ON PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

PETITION FOR REHEARING

GENEVIEVE GRAYDON, in Propria Persona
99 South Raymond Avenue
Pasadena, California 91105
(213) 793-5429 Petitioner

LIST OF PARTIES

GENEVIEVE GRAYDON, individually and as representative of the taxpayers of the City of Pasadena,

Petitioner,

v.

THE PASADENA REDEVELOPMENT AGENCY, a public body corporate and politic; LOUIS SHEPARD, Executive Director of the Pasadena Redevelopment Agency;

Respondents,

ERNEST W. HAHN, INCORPORATED, a California Corporation,

Real Party in Interest.

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Under Supreme Court Rule 51.2. a petition for rehearing of an order denying a petition for writ of certiorari must be "limited to intervening circumstances of substantial or controlling effect or to other substantial grounds not previously presented." This petition for rehearing is based on substantial grounds not previously presented:

Petitioner believed original petition was restricted to the narrow limits of the effect of the legal actions on her and the taxpayers of Pasadena. She now truly believes the effect is state-wide, even out of state.

The petitioner is troubled by the implications of the denial of the writ of certiorari, her last resort, but would not request a rehearing just to cause a delay. (see Petition, page 26, regarding petioner's applicable ethics.)

THE OPINION BELOW BARS ALL CALIFORNIA CITIZENS FROM ACCESS TO THE COURTS IN CASES CHALLENGING THE LEGALITY OF LOCAL GOVERNMENT ACTION.

This case involves the Statute of Limitations, applicable only to citizens suing their government, which, as construed, slams the courthouse doors closed whenever the citizen, exercising his First Amendment right of petition, asks the court's help in preventing lawless conduct by local government officials.

This deprivation of the right to petition, by closing citizen access to the courts, adversely affects all California citizens, and potentially harms other United States citizens residing in states which have similarly worded statutes.

Under the ruling below, a citizen is prevented from challenging any contract awarded by a local government, however

illegal the procedure or however outrageous its terms, unless the suit is filed within an unreasonably short 60-day period. Furthermore, this 60-day period commences, not on the date the contract is signed, but on the earlier date when the local agency decides to enter into the illegal contract. The governing board of the local agency is not required to know the terms and conditions of the contract when it makes that decision.

The governing board can decide to enter a contract even though the terms and the conditions of the contract have not been agreed upon, and even though no written contract has yet been prepared.

The short, 60-day time period runs against the citizen even though (1) at the time the local government makes its decision, no written contract exists, (2) the

terms of the contract are not negotiated or agreed upon at any time during the Limitations period, (3) the contract is not signed as of the end of the Limitations period, (4) if the citizen filed within the 60-day Limitations period, the case would be dismissed as premature, a "Catch 22!"

Thus, all California citizens, and an unknown number of citizens in other states, are denied any effective way to restrain local government officials from violating the law in the award of government contracts.

THE DECISION BELOW VIOLATES THE FIRST AND THE FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION.

The decision below violates the United States Constitution in the following respects:

1, it effectively deprives California citizens of their right of access to the courts to challenge illegal contracts authorized by local government, in violation of the right to petition their government for redress of grievances, guaranteed by the First Amendment; and

2, it unreasonably discriminates against citizens seeking to force their government to obey the law when awarding contracts, by imposing a unique and unreasonably short 60-day Statute of Limitations on such persons, which can start to run even before the contract is negotiated. No other class of persons or type of action is subjected to so short a period, nor is any local government so restrained in its action against any of its citizens.

THE DECISION BELOW DEPRIVES CITIZENS OF THEIR FIRST AMENDMENT RIGHT TO PETITION AND THEREBY SANCTIONS LAWLESS GOVERNMENT CONDUCT.

The First Amendment guarantees to citizens the right to petition their government for redress of grievances. This right includes the right to petition the courts for assistance, when that is necessary, to force local government officials to obey the law, or to restrain unlawful expenditures from the public treasury.

The decision below essentially deprives California citizens of the exercise of this valuable constitutional right.

The decision below converts a Statute of Limitations, previously applied only in very limited circumstances, into an effective bar against all citizens' actions involving municipal contracts.

While neither the language of the Statute nor the language of the courts' interpretation of it expressly prohibits citizens' action on municipal contracts, the effect of the decision below is to prohibit such action.

This effect arises because the "Limitations period" can start to run (and in the case of petitioner did start to run) before a written contract even exists.

Furthermore, the 60-day period is too short to allow citizens the time reasonably required to take the necessary responsible action when confronted by governmental illegality, including the following:

1. Persuade the governing body that the contract is illegal.

2. Organize citizens to effectively counter the illegal government action.

3. Raise the substantial funds necessary for litigation. (Petitioner used her own savings for legal fees, as a legacy to Pasadena, of which she has been a long-time citizen, to protect its fiscal integrity. Had savings for that purpose not become exhausted, she would not have had to go to the United States Supreme Court "pro per." However, she values this privilege and appreciates the patience of its Clerk in helping her to comply with its Rules. The respondents have unlimited public funds for legal expenses. No citizen's attorney is paid from public funds!)

4. Engage legal counsel, and

5. File an action.

The right to petition, which is under attack by the decision below, is a fundamental right, which goes to the very heart of the federal system. It is the cornerstone of home rule, the foundation which

gives meaning to the precepts that we are a Government of the People and by the People.

Citizens, who are the chief enforcers of the various "good government" statutes (i.e.: open meeting laws, competitive bidding statutes, conflict of interest prohibitions, and laws prohibiting gifts of public funds) are rendered impotent by the decision below.

Thus, the court below has opened the season to local government officials to line their pockets and reward their friends, free of judicial interference.

Precluded from judicial review by the decision below, and therefore implicitly licensed by it, are the following:

1. contracts authorized in secret meetings held in violation of the open-meetings laws;

2. contracts awarded without competi-

tive bidding statutes;

3. contracts which appear to enrich a member of the board authorizing the contract, in violation of the conflict of interest laws;

4. contracts selling governmental property at a fraction of its value, in violation of the statutes prohibiting gifts of public funds.

An effect of the decision below which is perhaps worse than the sanctioning of illegal raids on the public treasury is the effect on the attitudes of citizens of the local government. Deprived of any effective method of preventing official lawlessness, citizens tend to become cynical, apathetic, distrustful of their government, frustrated and discontented.

Americans are a hardy, self-reliant and fair people. Given an impartial arbiter for their disputes, they will happily

use private funds to assure that their local government acts lawfully and respects the rights of citizens.

THE DECISION BELOW IS UNCONSTITUTIONALLY DISCRIMINATORY.

The decision below applies an unusual and unreasonably short Limitation period to a single class of people seeking to enforce public rights.

Only citizens suing in their capacity as citizens, on behalf of all of the people, are subjected to so short a Limitations period.

Only government officials who have arguably acted illegally, contrary to the public interest, are benefited by it.

No other class of people, or type of action, is subject to so short a Statute of Limitations as are citizens in their action against illegal government con-

tracts. Nor is the local government subjected to so short a period when it sues a citizen on a contract with the government.

For example, if a city wishes to sue a citizen-contractor, alleging that the contract between them is invalid, the city has four years to do so.

However, if a citizen wishes to sue the city, alleging that a contract is prohibited by law, he has only 60 days to do so!

There is no reasonable basis advanced to support such arbitrary discrimination in so fundamental a matter. The decision below unconstitutionally discriminates against the citizen of local government.

CONCLUSION.

The decision below strikes at the heart of popular democratic government

at the local level. If allowed to stand, the lower court's ruling strikes a critical, perhaps mortal, blow to the concept of citizens' involvement in their government.

People restricted by this decision are citizens acting under the highest principles -- seeking honest, law abiding government. They are not seeking private gain or personal enrichment. Instead, the reward they seek is shared by the public, all of whom benefit when courts demand that government must obey the law.

The only persons who stand to gain from the decision below are the unscrupulous public officials and their cronies who join them in their raid on the public treasury.

The decision below runs afoul of the United States Constitution on two grounds:

1. it unreasonably curbs the right of

a citizen to petition his government for redress of grievances, a right guaranteed by the First Amendment;

2. it unreasonably discriminates against the citizens who seek the help of the courts to force their government to obey the law.

The ruling below carries with it numerous, disastrous side effects. Among others, the decision sanctions government lawlessness, advances the opportunity for official corruption, promotes citizen cynicism, and furthers popular distrust of government.

When good people are prevented from acting, and by petitioner's case, evil will triumph.

The petitioner respectfully requests that this Court grant her Petition for a Writ of Certiorari.

Respectfully submitted,

Genevieve Graydon,

in Propria Persona,

99 South Raymond Avenue,

Pasadena, California 91105

Signed: Genevieve Graydon

Dated: November 24, 1980